

§41.102 Completion of examination.

Before a contested case is initiated, except as the Board may otherwise authorize, for each involved application and patent:

(a) Examination or reexamination must be completed, and

(b) There must be at least one claim that:

(1) Is patentable but for a judgment in the contested case, and

(2) Would be involved in the contested case.

§41.103 Jurisdiction over involved files.

The Board acquires jurisdiction over any involved file when the Board initiates a contested case. Other proceedings for the involved file within the Office are suspended except as the Board may order.

§41.104 Conduct of contested case.

(a) The Board may determine a proper course of conduct in a proceeding for any situation not specifically covered by this part and may enter non-final orders to administer the proceeding.

(b) An administrative patent judge may waive or suspend in a proceeding the application of any rule in this subpart, subject to such conditions as the administrative patent judge may impose.

(c) Times set in this subpart are defaults. In the event of a conflict between a time set by rule and a time set by order, the time set by order is controlling. Action due on a day other than a business day may be completed on the next business day unless the Board expressly states otherwise.

§41.106 Filing and service.

(a) *General format requirements.* (1) The paper used for filings must be durable and white. A party must choose to file on either A4-sized paper or 8½ inch × 11 inch paper except in the case of exhibits that require a larger size in order to preserve details of the original. A party may not switch between paper sizes in a single proceeding. Only one side of the paper may be used.

(2) In papers, including affidavits, created for the proceeding:

(i) Markings must be in black ink or must otherwise provide an equivalently

permanent, dark, high-contrast image on the paper. The quality of printing must be equivalent to the quality produced by a laser printer. Either a proportional or monospaced font may be used, but the proportional font must be 12-point or larger and a monospaced font must not contain more than 4 characters per centimeter (10 characters per inch). Case names must be underlined or italicized.

(ii) Double spacing must be used except in headings, tables of contents, tables of authorities, indices, signature blocks, and certificates of service. Block quotations may be single-spaced and must be indented. Margins must be at least 2.5 centimeters (1 inch) on all sides.

(b) *Papers other than exhibits*—(1) *Cover sheet.* (i) The cover sheet must include the caption the Board specifies for the proceeding, a header indicating the party and contact information for the party, and a title indicating the sequence and subject of the paper. For example, “JONES MOTION 2, For benefit of an earlier application”.

(ii) If the Board specifies a color other than white for the cover sheet, the cover sheet must be that color.

(2) Papers must have two 0.5 cm (¼ inch) holes with centers 1 cm (½ inch) from the top of the page and 7 cm (2¾ inch) apart, centered horizontally on the page.

(3) *Incorporation by reference; combined papers.* Arguments must not be incorporated by reference from one paper into another paper. Combined motions, oppositions, replies, or other combined papers are not permitted.

(4) *Exhibits.* Additional requirements for exhibits appear in §41.154(c).

(c) *Working copy.* Every paper filed must be accompanied by a working copy marked “APJ Copy”.

(d) *Specific filing forms*—(1) *Filing by mail.* A paper filed using the EXPRESS MAIL® service of the United States Postal Service will be deemed to be filed as of “date-in” on the EXPRESS MAIL® mailing label; otherwise, mail will be deemed to be filed as of the stamped date of receipt at the Board.

(2) *Other modes of filing.* The Board may authorize other modes of filing,